

STEVEN P. KELLY, ESQ.
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1040 N. KINGS HIGHWAY, SUITE 407
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In Re:	
Carlos Benvenutti, Jr and Vernice L. Tolliver-Benvenutti aka Vernice L Tolliver	Chapter 13 Case Number: 18-28608-ABA
Debtor(s)	Judge: Andrew B. Altenburg, Jr.

**OBJECTION OF VILLAGE CAPITAL & INVESTMENT, LLC TO DEBTOR'S CHAPTER 13
PLAN WITH RESPECT TO REAL PROPERTY LOCATED AT 2402 BRANDEIS AVENUE,
RIVERTON, NJ 08077**

Village Capital & Investment, LLC (hereinafter, "Creditor"), through its Counsel, Stern & Eisenberg, PC, respectfully requests that this Honorable Court deny confirmation of the Chapter 13 Plan filed by Debtor Carlos Benvenutti, Jr and Vernice L. Tolliver-Benvenutti aka Vernice L Tolliver (hereinafter, "Debtor"). In support thereof, Creditor respectfully represents as follows:

1. On May 27, 2012, Debtor signed a note and mortgage in the principal sum of \$183,584.00, evidencing a loan from Carlos Benvenutti and Vernice Tolliver-Benvenutti in the same amount, secured by the real property located at 2402 Brandeis Avenue, Riverton, NJ 08077 (hereinafter, the "Property"), as evidenced by a mortgage recorded with the Clerk of Burlington County on June 25, 2012 in Book OR-13016 at Page 5508 as Instrument No. 4897078.
2. Creditor is the holder of the note and assignee of the mortgage.
3. Debtor filed a Chapter 13 Bankruptcy Petition on September 18, 2018 and as a result, any State Court proceedings were stayed.
4. Creditor objects to Debtor's proposed Chapter 13 Plan (hereinafter, the "Plan") for the following reasons:
 - a) The Plan is infeasible in that the Plan:
 - i. Is underfunded and does not provide sufficient funds to pay the claims.
 - ii. Does not provide for sufficient funds to Creditor in order to cure the pre-petition arrears due to Creditor in the amount of \$20,376.64. (which is the approximate amount subject to the actual amount stated in the final

filed Proof of Claim).

- b) The Plan does not adequately provide for post-petition payments in the monthly amount of \$7,702.62.
5. Further, the Debtor's Schedule D indicates a valuation of the property in the amount of \$203,400.00, with Movant's first lien against the property in the amount of \$176,118.60. Accordingly, there is little to no equity in the Property and the Property is not necessary for an effective reorganization.
6. By proposing to pay Creditor as proposed, the Plan violates the standards of 11 USC § 1325(a)(5)(B)(i) and (ii) because it pays Creditor less than the allowed amount of such claim.
7. This Objection is made in accordance with the Federal Rules of Bankruptcy Procedure.

WHEREFORE, Creditor, Village Capital & Investment, LLC by and through its Counsel, Stern & Eisenberg, PC, respectfully requests that this Honorable Court deny confirmation of the Chapter 13 Plan and dismiss the Chapter 13 Bankruptcy Petition together with such other relief this Court deems necessary and appropriate.

Respectfully Submitted:

Stern & Eisenberg, PC

By: /s/ STEVEN P. KELLY, ESQ.

STEVEN P. KELLY, ESQ.

Stern & Eisenberg, PC

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Cherry Hill, NJ 08034

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Phone: (609) 397-9200

Fax: (856) 667-1456

Bar Number: 010032010

Counsel for Movant

Date: October 26, 2018

STEVEN P. KELLY, ESQ.
STERN & EISENBERG, PC
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In Re:	
Carlos Benvenutti, Jr and Vernice L. Tolliver-Benvenutti aka Vernice L Tolliver	Chapter 13
Debtor(s)	Case Number: 18-28608-ABA
	Judge: Andrew B. Altenburg, Jr.

Recommended Local Form	<input type="checkbox"/> Followed	<input checked="" type="checkbox"/> Modified
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ORDER DENYING CONFIRMATION

The relief set forth on the following page is hereby ***ORDERED***.

(page 2)

Debtor: Carlos Benvenutti, Jr and Vernice L. Tolliver-Benvenutti aka Vernice L Tolliver

Case Number: 18-28608-ABA

Caption of Order: Order Denying Confirmation (and other relief)

Upon the Motion of Village Capital & Investment, LLC, through its Counsel, Stern & Eisenberg, PC, under the Bankruptcy Code and Rules of Bankruptcy Procedure as to the real property located at 2402 Brandeis Avenue, Riverton, NJ 08077, and for good cause shown, it is:

ORDERED that the confirmation of the Chapter 13 Plan is DENIED.

STEVEN P. KELLY, ESQ.
STERN & EISENBERG, PC
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In Re:	
Carlos Benvenutti, Jr and Vernice L. Tolliver-Benvenutti aka Vernice L Tolliver	Chapter 13 Case Number: 18-28608-ABA
Debtor(s)	Judge: Andrew B. Altenburg, Jr.

Memorandum of Law in Support of Objection of Village Capital & Investment, LLC to Chapter 13 Plan. With Respect to Real Property Located at 2402 Brandeis Avenue, Riverton, NJ 08077

The issues presented in the instant motion are not complicated. Therefore, no memorandum of law is required.

Respectfully Submitted:

Stern & Eisenberg, PC

By: /s/ Steven P. Kelly, Esq._____

Steven P. Kelly, Esq.

Stern & Eisenberg, PC

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Bar Number: 010032010

Counsel for Movant

Date: October 26, 2018

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CERTIFICATE OF SERVICE

I, STEVEN P. KELLY, ESQ., hereby certify that a true and correct copy of the within Objection to the Chapter 13 Plan of Village Capital & Investment, LLC, together with Order and this Certificate, was sent to the Debtor Counsel and the Trustee and all other required parties in accordance with the Rules of Bankruptcy Procedure on the date set forth below.

Respectfully submitted,

STERN & EISENBERG, PC

By: /s/ Steven P. Kelly, Esq.

Steven P. Kelly, Esq.
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Cherry Hill, NJ 08034
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Phone: (609) 397-9200
Fax: (856) 667-1456
Bar Number: 010032010
Counsel for Movant

DATE: October 26, 2018

Service List:

Name and Address of Party(ies) Served	Relationship of Party(ies) to the Case	Mode of Service
Isabel C. Balboa Cherry Tree Corporate Center 535 Route 38 - Suite 580 Cherry Hill, NJ 08002	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <small>Unless not a participant in ECF</small> <input type="checkbox"/> Other: _____ (as authorized by the Court*)
Brad J. Sadek 1315 Walnut Street Suite 502 Philadelphia, PA 19107	Debtor Counsel	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <small>Unless not a participant in ECF</small> <input type="checkbox"/> Other: _____ (as authorized by the Court*)
Carlos Benvenutti, Jr and Vernice L. Tolliver- Benvenutti aka Vernice L Tolliver 2402 Brandeis Avenue Riverton, NJ 08077	Debtors	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-Mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <small>Unless not a participant in ECF</small> <input type="checkbox"/> Other: _____ (as authorized by the Court*)